

Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON MUTUAL, INC.,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil No. 06-cv-1550-JCC

**JOINT STATUS REPORT OF
JANUARY 20, 2009**

Plaintiff and Defendant, through their undersigned attorneys, provide this status update in accordance with the Court's order of August 29, 2008. The parties are continuing their efforts to expeditiously resolve issues that remain open subsequent to the Court's order of August 12, 2008 granting the United States' motion for partial summary judgment. The parties anticipate submission to the Court of a proposed final order upon resolution of the three open issues described below.

1. In its First Amended Complaint, Plaintiff alleged that, in the event that Ahmanson was not entitled to any tax deduction or write-off associated with Branching Rights or the RAP Right

Joint Status Report
(Civ. No. 06-1550-JCC)

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U.S. DEPARTMENT OF JUSTICE
Tax Division, Western Region
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
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1 (collectively, the "Rights") for its 1993 tax year, then, as an alternative, Ahmanson was entitled to carry
2 back net operating losses from its 1996 tax year in the amount of \$25,875,379 to tax year 1993, pursuant
3 to IRC Code Section 172. (Docket No. 37, ¶ 79). Plaintiff seeks judgment with respect to the 1993 tax
4 year under this alternative claim.

5 2. In addition, Plaintiff's administrative claim for tax year 1990 (attached to the First
6 Amended Complaint) seeks to carry back a general business credit from Ahmanson's 1993 tax year to
7 Ahmanson's 1990 tax year.

8 3. Moreover, the United States has asserted in its pleadings a set off defense with respect to
9 Ahmanson's 1990 tax year.

10 The parties are working on a proposed resolution of these three issues. Due to the size of
11 Plaintiff's alternative carryback claims, the resolution of the first two of the three remaining matters must
12 be reviewed and approved by the United States Department of Justice and then, pursuant to 26 U.S.C.
13 §6405, it must be reported to the Joint Committee on Taxation. In accordance with these requirements,
14 the undersigned counsel for the United States promptly referred this matter to the Office of Review for
15 the United States Department of Justice, Tax Division. The Office of Review subsequently sought
16 additional information from the IRS and is now in the process of completing its review of the proposed
17 resolution of the matters described in paragraphs 1 and 2, above. The Office of Review expects to
18 complete its analysis and make a recommendation to the Office of the Assistant Attorney General for the
19 Tax Division of the United States Department of Justice by February 15, 2009. If the Office of the
20 Assistant Attorney General recommends approval of the proposed resolution, then the proposed
21 resolution will be reported to the Joint Committee on Taxation. The review process has taken longer than
22 initially anticipated, and it is now the best estimate of the undersigned counsel for the United States that
23 these administrative steps will be completed by mid-April 2009.

24 On September 29, 2008, Washington Mutual, Inc. filed a Chapter 11 bankruptcy petition in the
25 United States Bankruptcy Court for the District of Delaware, staying claims against the Debtor pursuant

1 to 11 U.S.C. § 362. Accordingly, approval of the Bankruptcy Court may be required for the parties to
2 stipulate to the set off claim of the United States referred to in paragraph 3, above. The parties are
3 exploring this issue and how to expeditiously seek to have the stay lifted for the purpose of stipulating to
4 the United States' set off claim.

5 The parties therefore request that the Court hold this case open pending resolution of these items
6 and require that the parties report back to the Court no later than April 20, 2009, as to the status of their
7 efforts to resolve these items.

8 DATED this 20th day of January, 2009.

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10 (signatures follow on next page)
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